

Congress of the United States
Washington, DC 20515

January 25, 2022

The Honorable William J. Walker
Sergeant-at-Arms
U.S. House of Representatives
Chair, Capitol Police Board
119 D St., NE
Washington, D.C. 20510

The Honorable J. Brett Blanton
Architect of the Capitol
Member, Capitol Police Board
119 D. St., NE
Washington, D.C. 20515

The Honorable Karen Gibson
Sergeant-at-Arms and Doorkeeper
U.S. Senate
Member, Capitol Police Board
119 D St., NE
Washington, D.C. 20510

Chief J. Thomas Manger
U.S. Capitol Police
Ex-Officio Member, Capitol Police Board
119 D St., NE
Washington, D.C. 20510

Dear Sergeant-at-Arms Walker, Sergeant-at-Arms Gibson, Mr. Blanton, and Chief Manger:

We write to express grave concern regarding reports that the Capitol Police Board has directed the United States Capitol Police (USCP) to conduct background checks and other forms of intelligence gathering on Members of Congress, staff, contractors, visitors to the Capitol Complex, and attendees participating in off-campus and district-based events. A decision to expand background checks and intelligence-gathering to a previously unsurveilled group of individuals constitutes a dramatic and troubling expansion of the USCP's authority.

Following the events of January 6, 2021, the Task Force 1-6 Capitol Security Review made several recommendations, including advising that screening procedures and background checks be implemented. The review stated that as part of an effort to "decrease insider threat risks", the Capitol should review "its use and application of background checks for identification card holders."¹ That recommendation was referenced by retired Lieutenant General Russel L. Honoré, the Task Force's Lead, when he stated, "[w]e made recommendations that everyone coming into the Capitol get background checks, the entire congressional staff. . . ."² Such a dramatic shift in Capitol security processes would require congressional approval, which to our knowledge has not been given. However, recent reports

¹ Task Force 1-6, *Capitol Security Review* (Mar. 5, 2021).

² Zachary Cohen, *Head of Capitol security review calls for background checks on all congressional staff*, CNN (Apr. 5, 2021) <https://www.cnn.com/2021/04/05/politics/honore-capitol-police-mission-congressional-staff-background-checks-cnn/index.html>

indicate the USCP had already implemented various changes to the intelligence gathering process, possibly including background checks and intelligence assessments, following the installment of Julie Farnam as the Acting Director of Intelligence for the USCP.

The reports concerning an enhanced background check and intelligence-gathering policy coincide with an initiative designed to identify threats from individuals working within the Capitol Complex. Sergeant-at-Arms Walker testified earlier this month before the House Appropriations Committee that the House Sergeant-at-Arms Office has developed an “insider threat awareness program” in coordination with the Intelligence Community, Department of Homeland Security, and the Federal Bureau of Investigation to identify “employees who lose their compass” and individuals whose “allegiance has changed.”³

Regardless of whether the “insider threat awareness program” is warranted, such an initiative should be based in statute with the appropriate transparency, personal liberty protections, and respect for constitutional guarantees in place. As constructed, the “insider threat awareness program” jeopardizes the rights of citizens to petition their elected officials and undermines legislative activities protected under Article I. Rather than utilizing a surveillance program designed by one party with no concern for personal liberty or constitutionally safeguarded processes, the appropriate development of such an apparatus would require Members of Congress from both chambers and parties to be engaged through a transparent legislative process.

While the statutory authority granted to the USCP is broad,⁴ we are unaware of any direct statutory authorization for such a dramatic expansion of intelligence collection. Regardless of whether background checks and information gathering are prudent security practices, we question whether the Capitol Police Board has the power to implement such procedures without express statutory authorization. Intelligence collection on individuals who are conducting legislative activities protected under Article I would raise serious constitutional and legal questions. Any intelligence activities of the sort would require direct statutory authorization and the implementation of a vigorous oversight system.

Furthermore, at the Republican Conference meeting on January 19, 2022, Representative Kelly Armstrong specifically asked Sergeant-at-Arms Walker and Chief Manger if the USCP was conducting background checks or compiling background memoranda on Members of Congress, staff, or potential attendees to town hall events. In response, Sergeant-at-Arms Walker and Chief Manger both assured the Republican Conference that the USCP was not collecting, gathering, or compiling this form of intelligence.

Given the serious implications if these reports are verified, we request the preservation of all records, documents, information, or materials dated on or after January 1, 2019, and related to background checks, intelligence gathering activities, and the insider threat awareness program. Further, we request that all such records, documents, information, or materials be immediately turned over to the House

³ Security of the Capitol Campus since the Attack of January 6, 2021: Hearing Before the Subcomm. on the Leg. Branch, 117 Cong. 10 (2022) (Statement of House Sergeant-at-Arms William J. Walker).

⁴ See, 2 USC §§ 1961, 1966.

Committee on Administration and the Senate Committee on Rules and Administration. We also request the Capitol Police Board answer the following questions:

- Is the USCP conducting background checks, surveillance, or any other type of intelligence activities on Members of Congress, staff, contractors, visitors to the Capitol Complex, or those attending events in congressional districts or otherwise off campus?
 - If yes, what information is being collected, for what purposes, and how is it being stored?
 - Is the USCP using non-public information, including federal or state law enforcement databases? Please explain the extent of this collection in detail.
 - How does the USCP protect such stored information? Who has access? Please explain in detail.
 - If yes, pursuant to what authority is the USCP conducting these activities?
 - If yes, did any Member of Congress direct USCP or the Capitol Police Board to conduct these activities or to consider the adoption of policies related to these activities?
 - If yes, did Sergeant-at-Arms Walker and Chief Manger incorrectly inform Republican Members about intelligence collection operations at the Republican Conference meeting on January 19, 2022?
 - If no, is the Capitol Police Board considering the adoption of regulations related to background checks or intelligence gathering, including draft regulations that have not been submitted to the Committee on House Administration and Senate Committee on Rules and Administration pursuant to 2 USC § 1967(a)?

Finally, we request Sergeant-at-Arms Walker answer the following questions:

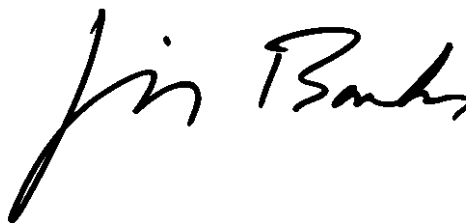
- Has the House Sergeant-at-Arms Office implemented any aspect of the insider threat awareness program?
 - If yes, please explain the program in detail, including the intended purpose, activities authorized, oversight provisions, cost, and any other relevant information.
 - If yes, pursuant to what authority is the House Sergeant-at-Arms conducting these activities?
 - If yes, did any Member of Congress direct the House Sergeant-at-Arms to conduct these activities or to consider the adoption of policies related to these activities?
 - If no, does the House Sergeant-at-Arms Office intend to seek approval from or to share details concerning such an insider threat awareness program with the House Committee on House Administration?

Given the seriousness of this matter, we anticipate your response no later than the close of business on January 27, 2022.

Sincerely,

A handwritten signature in blue ink that reads "Rodney Davis".

Rep. Rodney Davis
Ranking Member
Committee on House Administration

A handwritten signature in black ink that reads "Jim Banks".

Rep. Jim Banks
Member of Congress

A handwritten signature in blue ink that reads "Jim Jordan".

Rep. Jim Jordan
Ranking Member
Committee on the Judiciary

A handwritten signature in blue ink that reads "Kelly Armstrong".

Rep. Kelly Armstrong
Member of Congress

A handwritten signature in blue ink that reads "Barry Loudermilk".

Rep. Barry Loudermilk
Member of Congress

A handwritten signature in brown ink that reads "Troy E. Nehls".

Rep. Troy E. Nehls
Member of Congress

A handwritten signature in blue ink that reads "Bryan Steil".

Rep. Bryan Steil
Member of Congress

CC:

Julie Farnam, Acting Director of Intelligence, U.S. Capitol Police